



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 300**

131st General Assembly  
(As Introduced)

**Sens.** Seitz, Patton, Manning Tavares

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## **BILL SUMMARY**

- Authorizes psychologists to obtain limited prescriptive authority, as well as the authority to order related laboratory tests and to issue medication administration orders to nurses, by obtaining a certificate to prescribe from the State Board of Psychology.
- Requires a psychologist holding a certificate to prescribe to comply with requirements applicable to other prescribers concerning the review of patient information in the Ohio Automated Rx Reporting System (OARRS).
- Specifies that a psychologist's certificate to prescribe is automatically suspended if the psychologist's license is suspended.
- Adds several grounds for which health care regulatory boards may impose disciplinary action to the list of grounds for which the Psychology Board may take action against a psychologist.
- Authorizes psychologists to direct the nursing care provided by a licensed practical nurse.
- Makes conforming changes to criminal drug laws, pharmacy laws, public health emergency laws, and other laws associated with granting limited prescriptive authority to psychologists.

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## CONTENT AND OPERATION

### Limited prescriptive authority for psychologists

#### Scope

The bill permits a psychologist to have limited prescriptive authority by obtaining a certificate to prescribe from the State Board of Psychology. Under a certificate to prescribe, a psychologist may do all of the following:<sup>1</sup>

--Prescribe, personally furnish, or administer certain psychotropic drugs, as well as therapeutic devices specified by the Psychology Board in rules;<sup>2</sup>

--Order laboratory tests and procedures that the certificate holder believes are necessary to safely prescribe, personally furnish, or administer the drugs and therapeutic devices described above; and

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<sup>1</sup> R.C. 4732.40 and 4732.43.

<sup>2</sup> R.C. 4732.40(A).

--Issue an order that directs either a registered nurse or a licensed practical nurse who is authorized to administer medications to administer a drug or therapeutic device described above to a patient who is under the psychologist's care.

In general, the drugs covered by the certificate to prescribe are drugs (including controlled substances) in the following classes: antidepressants, antipsychotics, mood stabilizers and other anticonvulsant benzodiazepine<sup>3</sup> and nonbenzodiazepine anxiolytics, sedative hypnotics, stimulants, agents used for the treatment of extrapyramidal symptoms, agents for the treatment of Alzheimer's disease, and any other drugs commonly used to treat mental illness. A certificate holder is prohibited from prescribing, personally furnishing, or administering an opioid analgesic<sup>4</sup> unless the opioid analgesic is a medication approved by the U.S. Food and Drug Administration for the treatment of drug addiction, prevention of relapse of drug addiction, or both.<sup>5</sup>

### **Application; issuance**

The bill requires a psychologist who seeks a certificate to prescribe to file with the Psychology Board a written application on a form developed and supplied by the Board. The application must include all of the following:<sup>6</sup>

--The applicant's name, residential address, business address (if any), electronic mail address, telephone number, and Social Security number;

--Evidence of holding a valid license to practice psychology issued by the Board or, if the applicant exclusively practices at a facility operated by the U.S. Department of

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<sup>3</sup> A "benzodiazepine" is a controlled substance that has U.S. Food and Drug Administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative, triazolobenzodiazepine, or triazolobenzodiazepine derivative, including the following drugs and their varying salt forms or chemical congeners: alprazolam, chlordiazepoxide hydrochloride, clobazam, clonazepam, clorazepate, diazepam, estazolam, flurazepam hydrochloride, lorazepam, midazolam, oxazepam, quazepam, temazepam, and triazolam.

<sup>4</sup> An "opioid analgesic" is a controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxycodone, tapentadol, and tramadol.

<sup>5</sup> R.C. 4732.43(A).

<sup>6</sup> R.C. 4732.40(A).

Veterans Affairs, evidence of holding a license, certificate, or registration required to practice psychology in another U.S. jurisdiction;

- Evidence of receiving an earned doctoral degree in psychology;
- Proof of eligibility to receive a certificate to prescribe (see "**Eligibility**," below);
- Payment of a \$50 fee; and
- Any other information the Board requires.

The Board must review all applications it receives. If an application is complete and the Board determines that the applicant meets the requirements described above, the Board must issue the certificate to the applicant.<sup>7</sup>

### **Eligibility**

To be eligible to receive a certificate to prescribe, the bill requires an applicant to either complete the U.S. Department of Defense Psychopharmacology Demonstration Project or do all of the following: (1) complete a course of study in clinical pharmacology approved by the Board in rules, (2) under the direction of a qualified practitioner and for a duration of time specified in rules, complete a period of clinical supervision in the psychopharmacological treatment of diverse patient populations, and (3) pass the psychopharmacology examination for psychologists offered by the American Psychological Association Practice Organization's College of Professional Psychology.<sup>8</sup>

### **Duration**

The bill specifies that a certificate to prescribe is valid for two years, unless otherwise provided in rules adopted by the Psychology Board or earlier suspended or revoked by the Board.<sup>9</sup>

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<sup>7</sup> R.C. 4732.40(B).

<sup>8</sup> R.C. 4732.41.

<sup>9</sup> R.C. 4732.42(A).

## Renewal

### Basic requirements

The Psychology Board must renew a certificate to prescribe according to procedures and a renewal schedule specified in rules.<sup>10</sup> To renew, a holder must submit all of the following to the Board:<sup>11</sup>

--Evidence of having completed during the previous two years at least 24 contact hours of continuing education in psychopharmacology or, if the certificate has been held for less than a full renewal period, the number of hours required by the Board in rules;

--The renewal fee specified in rules; and

--Any additional information the Board requires as specified in rules.

The 24 hours of continuing education are in addition to continuing education requirements applicable to psychologists under current law.<sup>12</sup>

### Additional requirement – opioid analgesics and benzodiazepines

The Ohio Automated Rx Reporting System (OARRS) is a drug database established and maintained under current law by the State Board of Pharmacy.<sup>13</sup> Rules adopted by the Pharmacy Board require that when a controlled substance in schedule II, III, IV, or V is dispensed by a pharmacy or personally furnished by a prescriber to an outpatient, this information must be reported to OARRS at least daily.<sup>14</sup> Prescribers and pharmacists are among those who may access patient information in the database.<sup>15</sup>

The bill extends to a certificate holder who prescribes opioid analgesics or benzodiazepines and seeks renewal the same OARRS requirements applicable to prescribers who seek renewal of their certificates and licenses under existing law. This means both of the following:<sup>16</sup>

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<sup>10</sup> R.C. 4732.42(A).

<sup>11</sup> R.C. 4732.42(B).

<sup>12</sup> R.C. 4732.141, not in the bill.

<sup>13</sup> R.C. 4729.75, not in the bill.

<sup>14</sup> Ohio Administrative Code (O.A.C.) 4729-37-02, 4729-37-03, and 4729-37-07.

<sup>15</sup> R.C. 4729.80, not in the bill.

<sup>16</sup> R.C. 4732.42(C).



(1) The holder must generally certify to the Pharmacy Board that he or she has been granted access to OARRS. This requirement does not apply if the Pharmacy Board has notified the Psychology Board that the certificate holder has been restricted from obtaining further information from OARRS, the Pharmacy Board no longer maintains OARRS, or the certificate holder no longer practices psychology in Ohio; and

(2) The Psychology Board may take disciplinary action against a certificate holder if the holder certifies to the Board that he or she has been granted access to OARRS and the Board later determines that the holder in fact does *not* have that access.

### **Automatic suspension of a certificate to prescribe**

The bill specifies that if a psychologist's license to practice psychology expires because the psychologist failed to renew the license, the psychologist's certificate to prescribe is automatically suspended until the psychology license is reinstated. If the Psychology Board revokes or suspends a psychologist's license for disciplinary reasons, the certificate to prescribe is automatically revoked or suspended, as applicable. Likewise, if the Board places a limitation or restriction on a psychology license, the bill specifies that the same limitation or restriction is placed on the psychologist's certificate to prescribe while the license remains limited or restricted.<sup>17</sup>

### **Prohibition on prescribing**

The bill prohibits a person who is not a licensed health professional authorized to prescribe drugs ("a prescriber") from prescribing, personally furnishing, or administering the drugs and therapeutic devices the bill authorizes psychologists with a certificate to prescribe to prescribe, personally furnish, or administer.<sup>18</sup> In addition to psychologists who hold a certificate to prescribe, existing law specifies that all of the following may prescribe, personally furnish, or administer drugs and therapeutic devices to human patients: physicians authorized to practice medicine, osteopathic medicine, and podiatry; dentists; advanced practice registered nurses (APRNs) holding a certificate to prescribe; optometrists holding a therapeutic pharmaceutical agents certificate; and physician assistants (PAs) who hold a valid prescriber number issued by the State Medical Board and who have been granted physician-delegated prescriptive authority.<sup>19</sup> Current law specifies restrictions concerning the prescriptive authority of

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<sup>17</sup> R.C. 4732.42(D).

<sup>18</sup> R.C. 4732.44.

<sup>19</sup> R.C. 4729.01(I).

APRNs, PAs, and optometrists, particularly with respect to certain controlled substances.<sup>20</sup>

## **Ohio Automated Rx Reporting System (OARRS)**

### **Required review of patient information**

The bill extends to a psychologist holding a certificate to prescribe the same requirements applicable to other prescribers concerning review of patient information in OARRS when the psychologist considers prescribing an opioid analgesic as part of the patient's treatment for drug addiction, prevention of relapse of drug addiction, or both, or a benzodiazepine as part of the patient's course of treatment for a particular condition.<sup>21</sup> Those requirements specify that a prescriber or her or his delegate, when the prescriber initially prescribes or personally furnishes an opioid analgesic or a benzodiazepine, must request information from OARRS regarding the patient's prescriptions for controlled substances over the previous 12 months. (Optometrists are exempt from this requirement, because they are not permitted to prescribe opioid analgesics and benzodiazepines.) If the prescriber practices primarily in an Ohio county that adjoins another state, the psychologist or delegate must request a report of the information available in the other state's drug database that pertains to prescriptions issued or drugs furnished to the patient in the other state.<sup>22</sup>

In addition, if the patient's course of treatment for the condition continues for more than 90 days after the initial report is requested, the psychologist or delegate must make periodic requests for reports of information from OARRS until the course of treatment has ended. The requests must be made at intervals not exceeding 90 days, determined according to the date the initial request was made. The request must be made in the same manner as the request for the initial report.<sup>23</sup> On receipt of a report, the psychologist must assess the information in the report and document in the patient's record that the report was received and the information assessed.<sup>24</sup>

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<sup>20</sup> R.C. 4723.481; 4730.41 and 4730.411; and 4725.091, not in the bill.

<sup>21</sup> R.C. 4732.45.

<sup>22</sup> R.C. 4732.45(B)(1).

<sup>23</sup> R.C. 4732.45(B)(2).

<sup>24</sup> R.C. 4732.45(B)(3).



## **Exceptions**

The requirements concerning OARRS and neighboring state drug databases do not apply in any of the following circumstances:<sup>25</sup>

--An OARRS or neighboring state's drug database report is not available, in which case the psychologist must document in the patient's report the reason for the unavailability;

--The drug is prescribed in an amount indicated for a period not to exceed seven days;

--The drug is prescribed for the treatment of cancer or another condition associated with cancer;

--The drug is prescribed to a hospice patient in a hospice care program or to any other patient diagnosed as terminally ill; or

--The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

## **Rules**

The bill requires the Psychology Board to adopt rules that establish standards and procedures to be followed by a psychologist with a certificate to prescribe regarding the review of patient information in OARRS. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).<sup>26</sup> The bill's requirements concerning OARRS and the associated rules do not apply if the Pharmacy Board no longer maintains OARRS.<sup>27</sup>

## **Rule-making authority**

The bill requires the Psychology Board to adopt rules to administer and enforce the bill's provisions concerning prescriptive authority for psychologists. The rules must be adopted in accordance with the Administrative Procedure Act and establish or specify all of the following:<sup>28</sup>

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<sup>25</sup> R.C. 4732.45(C).

<sup>26</sup> R.C. 4732.45(D).

<sup>27</sup> R.C. 4732.45(E).

<sup>28</sup> R.C. 4732.46(A).

- Standards for approval of courses of study in clinical psychopharmacology;
- The practitioners who are qualified to supervise a psychologist during a period of clinical supervision in the psychopharmacological treatment of diverse patient populations and the duration of that period;
- Procedures and a schedule for renewing a certificate to prescribe;
- The number of hours of continuing education a certificate holder must complete if the certificate has been held for less than a full renewal cycle;
- The renewal fee;
- Any additional information the Board requires to renew a certificate to prescribe; and
- The therapeutic devices a psychologist may prescribe, personally furnish, or administer.

When adopting standards for approval of courses of study in clinical pharmacology, the Board must require a course of study to include instruction in basic life sciences, neurosciences, clinical and research pharmacology and psychopharmacology, clinical medicine and pathophysiology, physical assessment and laboratory examinations, clinical pharmacotherapeutics, research, and professional, ethical, and legal issues. The total length of the course of study may not be less than 425 contact hours.<sup>29</sup>

In addition, the Board may adopt rules to specify the drugs, by name and national drug code, that are included in the classes of drugs that a certificate holder may prescribe, personally furnish, or administer.<sup>30</sup>

## **Disciplinary action**

The bill adds several reasons for which the Psychology Board may discipline a psychologist. Some are the same reasons for which other boards that regulate prescribers may discipline those professionals for violating laws governing prescriptive authority. Specifically, the bill authorizes the Board to impose disciplinary action for:<sup>31</sup>

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<sup>29</sup> R.C. 4732.47.

<sup>30</sup> R.C. 4732.46(B).

<sup>31</sup> R.C. 4732.17(A)(19) to (25).

--Selling, giving away, or administering drugs or therapeutic devices for other than legal or legitimate therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, violation of any municipal, state, county, or federal drug law;

--The suspension or termination of employment by the U.S. Department of Defense or the U.S. Veterans Administration for any act that violates or would violate the law governing psychologists;

--In the case of a psychologist who holds a certificate to prescribe, failure to prescribe, personally furnish, or administer drugs or therapeutic devices in accordance with the bill;

--Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

--Assisting suicide;

--Failure to comply with law governing opioid analgesic prescriptions issued to minors;<sup>32</sup> and

--Failure to comply with the bill's requirements concerning the review of patient information in OARRS.

## **Practice of medicine**

Existing law specifies that the law governing psychologists does not authorize any person to engage in any acts that are regarded as practicing medicine. One of those is prescribing for compensation a drug or medicine for the cure or relief of a wound, fracture or bodily injury, infirmity, or disease. The bill clarifies that this provision does not prohibit psychologists holding a certificate to prescribe from prescribing, personally furnishing, or administering the drugs and therapeutic devices specified in the bill.<sup>33</sup>

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<sup>32</sup> R.C. 3719.061, not in the bill.

<sup>33</sup> R.C. 4732.20.

## **Authority to direct care provided by licensed practical nurses**

The bill authorizes psychologists to direct the nursing care provided by a licensed practical nurse. Registered nurses, physicians, physician assistants, dentists, podiatrists, optometrists, and chiropractors have this authority under current law.<sup>34</sup>

## **Conforming changes**

Associated with the prescriptive authority granted to psychologists under the bill, the bill makes a number of conforming changes to other provisions of current law. The conforming changes pertain to the following topics.

### **Definition of "prescriber"**

The bill specifies that a "licensed health professional authorized to prescribe drugs" or "prescriber" includes a psychologist who holds a certificate to prescribe, but only to the extent authorized by the bill.<sup>35</sup>

### **Possession and sale of dangerous drugs**

Generally to possess or possess for retail sale a prescription drug, a person must be licensed by the Pharmacy Board as a wholesale distributor of dangerous drugs or a terminal distributor of dangerous drugs. The bill adds psychologists who prescribe in accordance with the bill to the list of persons who are exempt from this requirement.<sup>36</sup>

### **Drug offenses**

The bill adds psychologists who prescribe, personally furnish, or administer controlled substances in accordance with the bill to the list of prescribers to whom the following criminal offenses do not apply: corrupting another with drugs, aggravated trafficking in drugs, trafficking in drugs, aggravated possession of drugs, possession of drugs, possessing drug abuse instruments, use or possession of drug paraphernalia, illegal processing of drug documents, and illegal dispensing of drug samples.<sup>37</sup>

### **Access to drugs during emergencies that affect the public health**

The bill adds psychologists who hold a certificate to prescribe to the list of health care professionals who are authorized to administer, deliver, or distribute drugs (other

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<sup>34</sup> R.C. 4723.01(F).

<sup>35</sup> R.C. 4729.01(I)(6).

<sup>36</sup> R.C. 4729.51(C).

<sup>37</sup> R.C. 2925.02(B), 2925.03(B)(1), 2925.11(B)(1), 2925.12(B), 2925.14(D)(1), 2925.23(E), and 2925.36(B).

than schedule II and III controlled substances) when the Governor has declared the existence of an emergency affecting the public health.<sup>38</sup>

### **Drug repository program**

The bill specifies that a psychologist who holds a certificate to prescribe is a "health care professional" for purposes of law governing the drug repository program established by the Pharmacy Board. Accordingly, such a psychologist has qualified immunity from civil liability for an action or omission associated with the psychologist's acceptance or dispensing of a drug under the program.<sup>39</sup>

### **Controlled substances law**

The bill specifies that a psychologist who holds a certificate to prescribe is limited to prescribing, personally furnishing, and administering a controlled substance that is in a class of drugs specified by the bill.<sup>40</sup>

### **Prosecutor's report**

The bill requires a prosecutor to report to the Psychology Board when a psychologist is convicted of a drug crime. Under existing law, a prosecutor must make such a report for other health care professionals who prescribe or work in an environment where drugs could be present.<sup>41</sup>

### **License suspension for controlled substance addiction**

The bill requires the Psychology Board to suspend a psychologist's license if the psychologist is addicted or becomes addicted to a controlled substance. Health care professionals who prescribe or work in an environment where drugs could be present are subject to a similar provision under existing law.<sup>42</sup>

### **Sample drugs**

The bill specifies that law authorizing drug manufacturers, manufacturers' representatives, and wholesale dealers in pharmaceuticals to furnish sample drugs to prescribers does not authorize a psychologist holding a certificate to prescribe to furnish

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<sup>38</sup> R.C. 3701.048(B)(11).

<sup>39</sup> R.C. 3715.872(A)(7) and (B)(3).

<sup>40</sup> R.C. 3719.06(A)(4).

<sup>41</sup> R.C. 3719.12.

<sup>42</sup> R.C. 3719.121(A).

a sample drug that the professional is not authorized to prescribe to a patient. The same provision applies under existing law to clinical nurse specialists, certified nurse-midwives, certified nurse practitioners, optometrists, and physician assistants.<sup>43</sup>

### **Assisted suicide**

The bill specifies that a psychologist is a "health care professional" for purposes of the law prohibiting assisted suicide and distinguishing between assisted suicide and providing comfort care. Accordingly, a psychologist, acting within his or her scope of practice, is not prohibited from dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the patient as a means of providing comfort care. This includes personally furnishing, administering, or causing to be administered any form of medication for the purpose of diminishing the patient's pain or discomfort and not for the purpose of postponing or causing the patient's death.<sup>44</sup>

### **Pain management clinics**

The bill specifies that a "pain management clinic" does not include a school, college, university, or other educational institution or program to the extent it provides instruction for individuals preparing to practice as psychologists.<sup>45</sup>

### **In-home care provided to persons with developmental disabilities**

The bill specifies that a psychologist who holds a certificate to prescribe is a "health care professional" for purposes of law governing who can provide a prescription or written instructions to a family member who desires to obtain unlicensed in-home care for a relative with developmental disabilities.<sup>46</sup>

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## **HISTORY**

### **ACTION**

### **DATE**

Introduced

03-24-16

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<sup>43</sup> R.C. 3719.81(C)(2).

<sup>44</sup> R.C. 3795.01; R.C. 3705.03(B), not in the bill.

<sup>45</sup> R.C. 4731.054(A)(5)(b).

<sup>46</sup> R.C. 5123.47(A)(5)(g).

